CALIFORNIA HEALTH BENEFIT EXCHANGE BOARD
January 26, 2012
East End Complex Auditorium
1500 Capitol Ave.
Sacramento, CA 95814

Agenda Item I: Call to Order, Roll Call, and Welcome

Executive Director Peter Lee called the meeting to order at 10:06 a.m.; Chairwoman Diana S. Dooley was en route and would be joining shortly.

Board members Present:	Diana S. Dooley, Chair
	Susan Kennedy
	Kimberly Belshé
	Paul Fearer
Board members Absent:	Robert Ross, MD

Agenda Item II: Closed Session

Agenda Item III: Announcement of Closed Session Actions
Chairwoman Dooley called the meeting to order at 12:10 p.m. A conflict disclosure was performed; there were no conflicts from the Board members that needed to be disclosed.

Public Comment: None.

Agenda Item IV: Approval of January 17, 2012 Minutes

Chairwoman Dooley asked for a motion to approve the minutes from the January 17, 2012 meeting.

Presentation: January 17, 2012 Minutes

Discussion: None.
Motion/Action: Ms. Kennedy moved to approve the January 17, 2012 minutes. Ms. Belshé seconded the motion.

Public Comment: None.

Vote: Roll was called, and the motion was approved by a unanimous vote.

Agenda Item V: Report from the Executive Director

Discussion: Personnel Matters

Note: These minutes were approved by the Board on February 21, 2012.

Michelle Lee, a student assistant recognized for her admirable work with the Exchange, will be returning to her field of study in engineering. Bill Fackenthall will be the CalHEERS procurement manager, in charge of ensuring that procurements happen smoothly.

Public Comment: None.

Discussion: Administrative Update

Presentation: 2012 Board Meeting Calendar

Due to conflicts with Assembly Health Committee meetings, among others, the Board has worked to adjust the 2012 meetings calendar. While Tuesday meetings cannot always be avoided, the Board has done its best to accommodate as many people as possible. Interested parties can find the new calendar on the website and the next meeting will still be held on Tuesday, February 21, 2012. The board meeting calendar continues to plan for three meetings to take place outside of Sacramento. At this time, specific locations for the Fresno, Bay Area, and Los Angeles meetings have yet to be determined.

Public Comment: Beth Capell, Health Access California: Thank you to the Board.

Discussion: Administrative Update

The Exchange released a solicitation for support in developing the qualified health plan (QHP) contracting and delivery system reform strategies. A number of vendors have expressed interest, and the Exchange will select one in upcoming weeks.

The Exchange also seeks stakeholder input and is developing a set of questions seeking input on QHP contracting and delivery system reform. A draft of these questions will be presented at the stakeholder advisory group meeting where the Exchange will receive input on the questions themselves before final release. Comments on the draft version of the questions may be submitted by Friday, February 3.

A series of small-group meetings will be held around the state, similar to the series the Exchange conducted on outreach, enrollment and information technology issues. The Exchange will meet with consumers, providers, health plan and other stakeholders. Nominations for potential participants can be sent to info@hbex.ca.gov.

The February 21 Board meeting will focus on qualified health plans and delivery reform and will include a series of panels from different perspectives. While no formal invitations have been made, panels could include providing the board and the broader community background overview of the market, regulatory environment, examples of public and private purchasing strategies and getting consumer, health plan and provider reaction. The panels will provide information for the Board and the broader community to frame the Qualified Health Plan policies and other strategies related to delivery system reform.

Note: These minutes were approved by the Board on February 21, 2012.

Public Comment: Beth Capell, Health Access California: A number of people submitted comments regarding what they think the criteria should be and what the Board should look at, particularly with respect to important consumer protections. Health Access California looks forward to participating in the public process.

Susan Fogel, National Health Law Program: Including consumer voices on the panels is important, especially those addressing women's health as many providers don't provide the full range of health services that women need.

Discussion: Administrative Update

The Exchange released a solicitation for marketing and communications support for eligibility, enrollment, and retention and developing an assisters program. The solicitation is a partnership between the Exchange, the Managed Risk Medical Insurance Board (MRMIB), and the Department of Health Care Services (DHCS). A range of consumer groups have submitted comments that are posted on the Exchange's website. The solicitation will help the Exchange succeed in enrolling the maximum number of people. The solicitation closes January 30, and the Exchange will begin the selection process shortly thereafter.

Public Comment:
Julie Silas, senior policy analyst, Consumer's Union: Consumers Union appreciates the Board's responsiveness to their letter and asked if there will be a publicly available list of those who submitted their intent to respond to the solicitation.

Mr. Lee responded that staff would post a list of questions raised by vendors with the names of those who asked them. The Board did not require statements of intent to bid.

Discussion: Administrative Update

Mr. Lee reported on his trip to Washington, which included meeting with the Center for Consumer Information and Insurance Oversight (CCIIO) and presenting at a Families USA meeting. He reported that California is doing well compared to other states but that there is still a lot of work to be done. The stakeholders in California should feel good about how California has accomplished.

Mr. Lee also met with some members of Congress, presenting at a meeting for congressional health leadership from both parties sponsored by the Commonwealth Fund. Mr. Lee noted that while there were certainly differences of opinion about the Affordable Care Act among congressional participants, there was strong support across the board for the potential role that could be played by exchanges.

Public Comment: None.

Agenda Item VI: Consideration of Comments on Essential Health Benefits Bulletin

After the federal government's essential health benefits bulletin was presented at the December meeting, the Exchange began to collaborate with several other state departments to develop a set of joint comments on the bulletin by the end of January. The Exchange received stakeholder comments on essential health benefits ranging from policy suggestions to comments submitted to the federal government. All comments received are posted on the Exchange website.

The Exchange works within the parameters of state and federal law but also seeks to shape those laws through the federal comment process. The comments in the presentation were drafted with DHCS, MRMIB, the California Department of Managed Health Care (DMHC), and the California Department of Insurance (CDI).

Presentation: HBEX Essential Health Benefits Overview

Presentation: HBEX Essential Health Benefits Overview - Milliman

Discussion: Deborah Kelch, consultant, California Health Benefit Exchange, presented an overview of the essential health benefits in the Affordable Care Act.

Bob Cosway, principal and consulting actuary, Milliman, retained by the Exchange, presented the Milliman comparison of ten California benchmark plans. The Analysis of Services Covered presents ten essential health benefit categories, broadly defined. Suggested additions or revisions to the analysis are welcome. One item omitted from the list of those that may have a cost impact is "nonserious mental illness." One item omitted from the list of services provided with variability is "substance abuse outpatient or inpatient treatment."

Mr. Lee clarified that the items on the list are different conditions with different coverage amongst the ten benchmark plans, not the ten essential benefits.

Mr. Cosway remarked that one on the list, autism behavioral therapy, is not covered on any of the ten benchmark plans as of January 1, 2012, but a California mandate effective July 1, 2012 would mandate its coverage by all but CalPERS. This resulted in confusion as to what date autism behavioral therapy would be identified as an essential benefit.

The next step will be to attach relative per member per month costs to each of these ten plans. That information will be available to the Exchange soon.

Presentation: California Draft Comments on Essential Health Benefits Bulletin

David Panush, director of government relations, presented the California draft comments on essential health benefits.

Mr. Panush thanked all the partners who collaborated on the draft comments and noted that Milliman will be updating and revising their product, reconcile the difference

between the federal government's set of small group plans and the Exchange's, and provide a cost estimate. The differences between the plans are not that great but it was noted that a rich set of benefits will be costly regardless of which benchmark plan is chosen.

Chairwoman Dooley asked Ms. Kelch to clarify what the state would be obligated to pay if it used a set of benefits above the national standard.

Ms. Kelch explained that, during the transition period between 2014 and 2016, if a state chooses a benchmark plan that includes state mandated benefits then there is no cost to the state for those benefits. However, if a state chooses a plan not subject to state mandates (such as a federal employee plan or CalPERS plan) and then added "mandated" benefits to that plan, then the state will be required to make up the difference related to the additional subsidy payments that would be required.

Ms. Belshé commented on her concern regarding carrier benefit flexibility, noting that from a consumer perspective, flexibility within and among benefit categories makes it difficult for consumers to discern the difference between plans. She asked if they discussed the potential for this type of carrier benefit flexibility to contribute to adverse selection, and, if so, felt the board should consider including that concern in its comments. She also asked how the essential health benefits would be updated and revised, informed by advancements in market experience, clinical practice, and science, noting that this creates strong incentives for states to build upon what they have rather than taking steps back.

Mr. Fearer said he's generally comfortable with the direction but expressed similar concerns regarding carrier benefit flexibility.

Ms. Kelch clarified that the Affordable Care Act states that "the state shall make payments to defray the cost of any additional benefits directly to an individual enrolled in a qualified health plan or on behalf of an individual directly to the health insurer in whose qualified health plan such individual is enrolled" and that this applies to all individuals in the Exchange, not just those receiving a subsidy.

Mr. Lee noted that the Exchange would seek to work with the partners in drafting the comments on Essential Health Benefits to incorporate the comments made by the Board members into the final draft.

Public Comment: Beth Capell, Health Access California: Health Access urged the Board to remain committed to using the Knox-Keene standards for benefits and noted that Health Access would submit technical questions in writing.

Heather Fargo, National Multiple Sclerosis Society and California Action Network (joined by Terry Farmer, chair of government relations committee, National MS Society): They want to be sure the needs of those with MS or disabilities who may not be helped

by medicine but need habilitation will be considered as part of the essential benefits package.

Lucy Quacinella, Maternal and Child Health Access: There are gaps in coverage for maternity care, such as breastfeeding support benefits, and the Exchange should look at cost savings when discussing essential benefits, particularly regarding maternity care.

Charles Bacchi, executive vice president, California Association of Health Plans: CAHP feels that benefit limits and utilization controls are important for limiting costs, noting that forcing plans to have contracts with all providers will increase costs. He said that while some are suggesting that everything medically necessary should be covered, it is important to decide coverage first and then medical necessity, noting that co-pays and deductibles exist for many reasons.

Donne Brownsey, California Opioid Maintenance Providers: The essential issue for substance abuse providers is how to reconcile the essential benefits list and the parity of substance abuse treatment with the benchmark process, when the vast majority of plans do not provide for these kinds of services. She hopes the Exchange will pursue a path of inclusivity in regards to substance abuse treatment coverage, noting that the state has an optional Medi-Cal substance abuse treatment benefit.

Philip Hanger, vice president, Mental Health Systems: He thanked Mr. Cosway for including nonserious mental health as an amendment, noting that it should be included in covered services as required by parity under the ACA and because of the long-term health benefits and savings.

Karen Fessel, executive director, Autism Health Insurance Project: Some autism treatment is covered and provided in DMHC-regulated plans and should be expanded to not put children with autism at a disadvantage.

Bill Wehrle, Kaiser Permanente: While agreeing with the general direction of the letter and comments, Kaiser believes there should be more clarification from the federal government and that the Exchange may want to take a more neutral position on issues such as medical necessity.

Michael Johnson, director of public policy, Blue Shield of California: The Board should ask the federal government to apply essential health benefits to multistate plans offered through the Exchanges to ensure a level playing field and scope of service limits should apply to essential health benefits.

Julie Silas, senior policy analyst, Consumer's Union: Consumers Union supported Ms. Belshé's comment on including a mention of adverse selection and commended the comments regarding carrier benefit flexibility.

Terri Cowger Hill, Hemophilia Council of California: The organization wants to continue promoting direct annual access to hematologists at federally qualified hemophilia centers

on an annual basis and noted that there are no generic medications for hemophilia and medications are not interchangeable so it is important not to restrict patient access to multiple types of clotting drugs.

Susan Fogel, National Health Law Program (NHELP): NHELP appreciated the Board's comments about insurer flexibility, noting that the Family PACT model should be preserved for preventive services. Also, given California's large limited-English population and the antidiscrimination parts of the ACA, the Board should ask that language services be part of the defined essential health benefits in terms of setting conditions under which services are provided and abortion services should be included as well.

Margaret Crosby, staff counsel, American Civil Liberties Union (ACLU): ACLU noted the federal employee health plan is unacceptable for California because it eliminates all coverage for abortion services while Medi-Cal and nearly all health plans in California currently cover birth and abortion services.

Brianna Pittman, legislative advocate and policy associate, Planned Parenthood Affiliates of California: Planned Parenthood appreciated comments allowing states rather than carriers to define flexibility as it could allow plans to shortchange the ACA's robust provisions for women's health care. California should also cover the entire range of contraceptives to prevent limitations on services.

Kathleen Mossburg, California Family Health Council and Title X family planning providers, and San Francisco AIDS Foundation: Ensuring an adequate floor is important for those with HIV and AIDS and it's necessary to hold plans accountable to ensure benefits don't discriminate against anyone with a chronic illness as these safeguard ensure those with HIV and AIDS get the treatments and providers they need.

Erin Aaberg Givans, executive director, Children's Specialty Care Coalition: Clarification is needed to determine if pediatric services includes only well-child preventive services or a full array of services as the financial impact is different depending on the benefit design.

Charity Bracy, California Children's Hospital Association: In terms of actual benefits, special consideration must be given to pediatric habilitative services as there is a fundamental difference between treatment for children and adults. It is critical that children's hospitals are part of the definition of essential community providers, and there should be a requirement that qualified health plans have to contract with them.

Kristin Jacobson, Alliance of California Autism Organizations and Autism Deserves Equal Coverage: The listing of ten essential benefits mentions mental health and substance abuse services, but the statute specifically says "including behavioral health treatment" which was not included in the presentation. While serious mental illness is covered under all ten of the California benchmark plans, autism is not but autism is one of the serious mental illnesses specifically enumerated in the current California mental

health parity law and behavioral health treatment is required to be offered and covered in CDI and DMHC regulated plans, noting that Mr. Cosway's analysis may be incorrect.

Ashley Cohen, policy director, Insure the Uninsured Project: Essential health benefits should be modeled after state small-employer plans because that is the market in which the Exchange will be participating. Essential health benefits should be determined by an expert body with a balance between strong scientific evidence and practicality and affordability. A very affordable package should be offered in the first year to attract and maximize participation and dental and vision coverage for adults should be offered as supplemental benefits through the Exchange.

Cary Sanders, California Pan-Ethnic Health Network: The state should have the power to regulate carrier benefit flexibility and there are concerns regarding adverse selection as communities of color tend to experience disproportionately high rates of chronic disease so there shouldn't be an opportunity for plans to cherry-pick or separate high-health and low-health participants.

Bless Sheppard, California Dental Association (CDA): Her organization wanted to address pediatric oral health benefits that are covered in federal plans but not in state plans. CCIIO should suggest benchmarks for dental coverage that more accurately reflect dental benefits covered in typical employer plans, recognizing how they are usually offered in the marketplace today.

Kerry Parker, executive director, California Society of Addiction Medicine and the California Coalition for Whole Health: They support the National Coalition for Whole Health's position on what should be considered essential health benefits for mental health and substance abuse and note that it is imperative to proceed as if parity were already a requirement as it is not about having a rich benefit but about having an optimal benefit that provides the best outcomes.

Kristian Foy, California Dialysis Council: Treatment for end-stage renal disease should be included as an essential health benefit.

Garen Corbett, director, California Health Benefits Review Program (CHBRP): CHBRP provides the legislature with faculty-driven, evidence-based analysis on health insurance benefits and they applaud the phenomenal analysis done by the Exchange in a short period of time.

Brett Johnson, associate director, California Medical Association: They support using CHBRP's process and standards to update the essential benefits package and generally support the benchmark proposed by CMS although they are concerned about the potential for modification within benefit categories, especially regarding substitution across categories. There is a serious risk of this actuarial equivalence being used by issuers as a proxy for insurance rating and adverse selection and there is a risk that benefits for certain services could be reduced due to weak provider networks and specialties rather than trying to strengthen local networks

James Mullen, senior legislative analyst, Delta Dental California: There are corrections needed in the benchmark discussion materials as if a benchmark plan has pediatric dental benefits then the state is allowed to pursue those. They are proposing—and invite California to join them—that HHS create a set of dental-specific benchmarks to accommodate the unique nature of acceptable dental benefits.

Micah Weinberg, Bay Area Council: This will be any of the potential standardized benefit package that could be selected from represent very comprehensive benefit packages. Exchanges are a market-based solution, and we want the market to provide products that maximize health—not medical care—for the minimum price. If we choose a very rich, standardized comprehensive set of benefits, but choose a package that doesn't allow us flexibility in those areas, the market won't be providing the kind of innovative solutions that we need to maximize the health of Californians.

The Board asked Mr. Weinberg if he meant that the federal benchmarks are too rich.

Mr. Weinberg said that even the minimum benefit package will run the Exchange into problems in terms of delivery system reform, which needs to be open-minded about how medical providers are used and how people access services. The Exchange should give itself maximum flexibility going forward and the minimum in the context of the potential standardized benefit packages being very comprehensive and challenging the Exchange's goal of providing affordable coverage.

Julianne Broyles, California Association of Health Underwriters: Harmonizing the essential benefits package across state lines is important for ease of administration, not just for plans, but also for employers and the insurance agents helping them. If the Exchange offers all benefits from the outset then it will be difficult to distinguish between levels, making it more difficult to choose plans.

Chairwoman Dooley asked for a resolution to direct staff to incorporate any appropriate comments that have been agreed upon here and to send them off to the federal government within the mandated period.

Motion/Action: Mr. Fearer moved to direct the staff to incorporate the appropriate comments for submission to the federal government. Ms. Belshé seconded the motion.

Vote: Roll was called, and the motion was approved by a unanimous vote.

Agenda Item VII: Additional Comments on CalHEERS Solicitation

The Exchange released the full solicitation on January 18; on January 26, they released an update on contract terms and cost tables.

Note: These minutes were approved by the Board on February 21, 2012.

While in the closed session, the Board took an action on contract terms, to follow up on one made in December, authorizing the Exchange to issue separate contracts for program management with business analytics and independent verification and validation services.

Presentation: CalHEERS Update Presentation

Discussion: The Board has received many excellent written comments that it will consider.

Public Comment: Julie Silas, senior policy analyst, Consumers Union: She asked if a list of vendors coming to the preconference session would be made public.

A list of vendors who intend to bid has not been made public, and Mr. Maxwell-Jolly will find out if it's legal to post that information. The bidders' conference will be public, though it needs to be focused on questions and issues raised by the bidders, rather than questions posed by the public.

Agenda Item VIII: Adjournment
The meeting was adjourned at 2:20 p.m.

Note: These minutes were approved by the Board on February 21, 2012.